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SUBJECT: HUMANITARIAN RESETTLEMENT PROCESS DISTILLED

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[1](#). (U) Summary: Roughly eighteen months into the two year Humanitarian Resettlement (HR) process application period, the pool of potential viable applicants appears to be almost exhausted, as shown by an overall approval rate (ratio of total applications to approved cases) of only two percent. There may be a few hundred who have not applied yet. Thus far, slightly more than 1,100 people have received approval to resettle in the U.S. Many more -- about 150,000 counting eligible family members -- have submitted applications for resettlement, but are not qualified. Economically, Vietnam today is a far different place than it was just a few years ago; those possibly meritorious cases who might not have had the financial wherewithal to even apply for resettlement a decade ago do not face the same obstacles today. As noted reftel C, the changing economy also means that a number of people whose personal history of persecution may have qualified them for the program are doing quite well (sometimes spectacularly well) in the "new Vietnam" and have no desire to emigrate.

[2](#). (U) (Summary, Continued) The GVN generally has been cooperative with the HR process in tone and in substance, within the limitations of its environment. Moreover, this cooperation has improved over time, aided by a bilateral Joint Working Group (JWG) mechanism that has built trust and good will. How the HR endgame plays out will depend as much on the USG as on the GVN. Key variables include whether and when the McCain Amendment is renewed, the rate at which USCIS provides adjudicators, and the extent to which the GVN will be amenable to providing visas for our expat caseworkers after the HR application period ends. Given these variables -- and the McCain Amendment in particular -- it is entirely possible that the HR section will continue to face a significant workload after the PRM staffing for the section ends in 2009. End summary.

The Applicants: Blood from a Stone

[3](#). (U) HR is the re-opening of three Vietnamese refugee categories that were part of the erstwhile Orderly Departure Program (ODP), an international effort to end the chaotic departure by sea and land from Vietnam in the 1980's. At the time ODP ended in the mid-1990's, there was some feeling in the United States that a substantial number of eligible Vietnamese had not been able to apply or complete applications for reasons beyond their control. Some were too poor to obtain necessary

documents or to travel to Ho Chi Minh City from remote parts of Vietnam. Others in remote areas had not learned about the program or were not able to communicate with ODP. More troubling were isolated accounts that Vietnamese authorities interfered with or prevented some from communicating with ODP. However, before closing cases, ODP made exhaustive attempts to communicate by letter, telex, and telephone with applicants. This succeeded in so many cases that there was no systematic reason to believe that those who did not respond were suffering GVN interference. Rather, it appeared that these persons were not interested in resettlement.

14. (U) Vietnam has experienced rapid economic growth throughout the intervening years although large parts of rural Vietnam are still very poor. Relations between the U.S. and Vietnam have improved substantially in the meantime and the internal political climate is significantly less restrictive than when ODP was operating. Therefore, most of the factors that might have prevented people from applying before are much less significant now.

15. (U) HR re-visited and re-opened three ODP categories: those for former re-education camp inmates (HO), former USG employees (U-11), and former employees of U.S. entities (V-11). Qualified re-education camp inmates had to have been punished because of their association with the USG or USG policies with at least three years of re-education, or to have had at least one year of re-education along with one or more of the following: training or education on U.S. soil, a year or more of verified employment with the USG, a year or more of verified employment with a U.S. entity. Qualified U-11 and V-11 applicants had to have worked for at least five years in their respective categories and to have suffered persecution because of their association with the U.S. Over a quarter (almost 16,000) of HR applicants to date do not even partially fit any of these criteria. Almost two-thirds of applicants (about 38,000) have made claims related to the three categories, but have still not met basic requirements. Most were not in re-education long enough. Others have little or no evidence of claimed U.S. training or employment. Another group has demonstrated credible evidence of combined USG and

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U.S. entity employment that added together exceeds five years, but there is no refugee category for such persons.

16. (U) Demonstrating eligibility for HO is relatively straightforward. The GVN issued Re-education Camp Release Certificates (Gia Ra Trai or GRT) to inmates upon their release from camp. The standard certificate identifies the former inmate, shows the dates of entry into and release from re-education, and the reason for re-education. Some certificates were issued without entry dates. The GVN can verify many of these certificates and in some cases can supply missing dates. However, records for some camps have been lost through the intervening years. Some false certifications have also been issued, according to our GVN contacts. Over the years there have also been many accounts of solicitations for bribery to issue false or inflated GRTs on the one hand, or of payments to issue a correct document on the other. ODP caseworkers and adjudicators commonly requested GVN verification of GRTs and we have resumed that practice under HR.

17. (U) Those trying to qualify for HO "1+1" based on a year in re-education and U.S. training or a year of employment with the USG or a U.S. entity face a more challenging task. As with many other Vietnamese refugee categories, the interpretation of requirements for HO 1+1 shifted during the 1980's and 1990's. By 1995, the erstwhile Immigration and Naturalization Service ruled definitively that qualifying training had to have taken place on U.S. soil. U.S. sponsored training elsewhere, including on a U.S. warship, does not count. Nonetheless, many individuals try to apply without qualifying training. After being rejected for insufficient time (less than three years) in re-education, many write appeal letters asking why their claimed training was not taken into account for 1+1. The answer is almost invariably that their training did not meet the criteria

or was insufficiently documented. These persons make up the single largest set of rejected applicants.

¶8. (U) Demonstrating U-11 and V-11 employment is much more difficult than demonstrating re-education. People have tended to keep their GRTs. However in 1975, many Vietnamese, afraid of being linked with the Americans, destroyed their employment records. Time has taken its toll on the remaining records and on memories. HRS checks all U-11 applicants with the National Personnel Records Center (NPRC), which has confirmed the employment of several hundred U-11s. Many V-11 employers no longer exist and few of those that remain keep 30-45 year old personnel records. Sometimes former Amcit bosses or co-workers remember an individual employee, but it is rarer that they still recall the duration of their old colleague's employment. A very small number of applicants have qualified almost solely on the basis of convincing secondary evidence such as photographs combined with detailed accounts of their work experience.

¶9. (U) The HO category inherently includes a persecution claim -- a long period in re-education. The publicized criteria for the U-11 and V-11 categories do not. Applicants in these categories must provide a credible persecution story. Many of those who can demonstrate employment were not persecuted. To their surprise, the lack of persecution disqualifies them. Since the GVN has never allowed the persecution requirement for the U-11 and V-11 categories to be publicized in Vietnam, many otherwise qualified applicants are unaware of it. Many of these individuals did not suffer any more than their neighbors did in the years after 1975. For most, their qualifying employment ended during the "Vietnamization" phase of the war in the early 1970's. They had two or three years to bury their past before the Communist takeover. If the new authorities ever discovered their past, it was often not until so long after the fact that the authorities no longer cared.

¶10. (SBU) The day after the first announcement of HR to the public in December 2005, several hundred people came to the Consulate General seeking information about the process. Since then, HRS and the GVN have distributed at least 108,000 HR application forms. HRS has reviewed over 58,000 applications with about six percent found qualified for presentation to USCIS. The number and quality of new applications has declined over time. The results from USCIS adjudications show an even steeper decline in quality. USCIS approved about 70 percent of applicants during the first circuit ride in 2006. The approval rate during the most recent circuit ride was below sixteen percent. It is important to note that the CIS circuit riders only review those cases found to be most credible. The overall approval rate for all applications received is roughly two percent. While we anticipated that the number of persons who could rightfully claim to be "refugees" derived from their wartime and immediate post-war circumstances would be small when we launched HR two years ago, we did not expect it to be this miniscule.

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AN UNCERTAIN END GAME

¶11. (U) PRM intends to cease staffing the slot for the HR section chief when the incumbent departs in 2009. While this decision is understandable when viewed in terms of the number of successful applicants who actually immigrate to the USA as a result of HR section operations, the section's workload is largely determined by the total number of applicants rather than the number of applications approved. There are two variables that could have a large impact on concluding HR processing. On the U.S. side, the most important variable is reauthorization of the McCain Amendment. The McCain Amendment allows for the resettlement of unmarried adult children of approved HO applicants along with or following their parents. McCain applications (1,149 currently pending) represent over one third of the HR cases awaiting USCIS interview (2,734). The Amendment lapsed at the end of FY-07 although language to extend it for

two years is in the FY-08 Foreign Operations Bill. While USCIS has determined that it can adjudicate McCain applications submitted before October 1, it cannot touch those received from that date, unless and until the measure is reauthorized. Unless the reauthorization contains language tying it to the end of the HR application period, it will probably be necessary to continue accepting McCain applications even after the end of the HR application period. Earlier this year HRS was still receiving a few McCain applications tied to ODP beneficiaries that resettled in the U.S. over a decade ago. A late reauthorization of the McCain Amendment will delay the completion of Humanitarian Resettlement processing. The GVN is eager to see the completion of the process and there is no U.S. benefit to stringing it out.

¶12. (U) Another variable that may impact processing completion is GRT verification. While NPRC verifications are done electronically and require about six working days on average, the Ministry of Public Security (MPS) has needed much longer to check GRTs. Centrally archived GRTs are usually verified in no more than six weeks. However, well over half of the GRTs for which we have requested verification are not centrally archived.

If records of these documents exist at all, they are kept at the provincial level by local authorities who move at their own, often much slower, paces. Some of these verifications have been outstanding for months and there is no telling how much longer they will be. The GVN has also reported that it is often necessary to check with multiple provinces because they cannot tell where records of some camps ended up after numerous changes in administrative boundaries and place names.

The Process: Like a Python Digesting a Pig

¶13. (U) Gearing up for HR, the then-Refugee Resettlement Section in Ho Chi Minh City roughly tripled its staff. Then, in response to requests for tens of thousands of applications, staff more than doubled again, peaking at 45. We kept current with requests for applications, but began to fall behind with evaluating completed responses. The latter is a multi-step process that must be completed by relatively difficult to recruit and hire expatriate staff. The backlog to evaluate completed applications reached more than thirteen weeks in October 2006. Increases in efficiency (especially a new front-end database tool that allows simultaneous searching of six ODP archives), staff size, and a slowdown in new applications allowed us to eliminate the backlog by May 2007.

¶14. (SBU) HRS informs unsuccessful applicants by letter. We have found over 54,000 applicants unqualified and must clearly explain why to them. This takes considerable effort; to date we have sent letters to almost 44,000 of them. Refusals generate appeals that come in the mail along with hundreds or thousands of pieces of other mail each week. Although the number of appeals is relatively small, a few thousand, sorting them out generates considerable work. Although we are not required to do so, reviewing appeals has allowed us to fine-tune our refusal language and discover a small number of persons who may have articulated a clearer claim for resettlement the second time around, including a handful of Priority One cases. The discovery of some possible Priority One cases in HR applications led us to place greater emphasis on initial screening for current persecution claims. A number of such cases are currently in process.

¶15. (U) HRS contacts those who are qualified for presentation to USCIS through the mail and sets up a date for prescreening with an HRS caseworker. Prescreening is primarily to collect information to create a case and ready it for presentation to a USCIS adjudicator. The three available interview rooms created a bottleneck in the whole process that we resolved in July 2007 by building two additional rooms. Under current conditions,

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including planned USCIS circuit rides, we should be able to finish prescreening HR applicants before the end of FY 2008.

During prescreening, the applicants' accounts are compared with evidence gathered from other sources such as the NPRC. This sometimes leads to the closure of cases before they are presented to USCIS. For instance, there have been a few dozen U-11 applicants with what initially seemed to be NPRC-verified employment. During pre-screening these applicants described employment histories that were completely different from what NPRC found. Almost all of these cases have involved persons with similar names and dates of birth. Sometimes they have other evidence of USG employment, but most, if they were employed at all, were paid with "Non-Appropriated Funds" and are not eligible for resettlement. These persons were not direct hires and included recreation association employees and private domestic servants.

¶16. (U) After prescreening, applicants are scheduled for interview with USCIS. Our latest estimate is that USCIS interviews may be finished by around the end of CY 2008. The USCIS Refugee Corp provides adjudicators for HR and is planning four circuit rides during CY 2008 and another in early 2009 if necessary. This is several months earlier than we had previously planned for thanks to a welcome stepped-up USCIS effort to complete this caseload. Cases deferred by USCIS will take longer and the time required to complete any residual case load cannot be estimated. There are still a handful of open ODP cases that are now over ten years old.

The Bi-Lateral Relationship: Different, But (Mostly)
Constructive Approaches

¶17. (U) The bilateral mechanism for working out differences over HRS processing is the JWG, which has met five times thus far. The fifth meeting, on December 13, is reported reftel D. The beginning of the HR process was marked by a number of mismatched expectations between the USG and the GVN, but discussion within the JWG has smoothed out most of these misunderstandings. The USG is represented at the JWG by USCG HCMC officers (led by the DPO); the GVN is represented by the MPS Department of Immigration and Emigration, MFA Consular Department, MFA North America Division, and MFA's HCMC ERO. The JWG has resolved differences about the timetable of HR and about PIO efforts. The GVN wanted the entire HRS process to be completed within two years, but we have settled on a two-year application period and a best effort by the USG to finish the process as quickly as possible after that. The GVN announced early on that it wanted to handle the PIO effort itself, but did not make clear that it expected to be reimbursed for expenses. In January 2006, a month into the six-month publicity phase, outreach efforts stopped and the GVN asked for \$70,000 to cover its expenses to that point. This was a non-starter, but the two sides eventually agreed to two additional shorter USG-funded PIO rounds. The first, in June 2007, targeted provinces with low HR application rates. The second, in January or February 2008, will be a "last call."

¶18. (U) The GVN's paradigm for refugee resettlement processes involves exchanges of lists. True to form, the GVN requested several lists of HR applicants, including one showing "all applicants." While the GVN later narrowed the scope of "all applicants" to "all screened-in applicants," this is still contrary to refugee confidentiality regulations. We have not provided lists until after USCIS adjudication. The GVN response has been to offer tantalizing bits of fraud information about unspecified applicants including some in approved cases. When asked to share enough so that we could take action, they have replied that since they do not have the list of all applicants, they do not know if the detected fraud is related to HR until it is too late, adding that they do not consider it any of their business to contradict our decisions on particular cases.

¶19. (SBU) JWG operations have become smoother as the two sides have become more used to working with each other. Deputy Director of Immigration and Emigration, Colonel Le Xuan Vien, became the GVN's JWG chairman before the third meeting in November 2006. He has been quick to identify points on which we must agree to disagree (such as the exchange of lists) and move on to more productive matters. Communications have become

quicker and somewhat less stilted as well, sometimes occurring without the almost ubiquitous GVN insistence on diplomatic notes. It appears that most remaining JWG business can be conducted without face to face meetings of the entire group. The GVN has signaled that it only wants to meet one more time, at the end of June 2008, shortly after the end of the application period.

¶20. (SBU) Paradoxically, GVN officials have also raised the idea of expanding the role of the JWG to refugee matters outside of

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HR. This makes a certain amount of sense since the players involved are the same across these issues. The danger lies in the GVN possibly equating the character of HR (a humanitarian measure to deal with a problem that is essentially in the past) with the current problems addressed through the Priority One and Visas-93 processes. Some individuals in the GVN (in and out of the JWG) have expressed interest in discretionary resettlement based on the desire of the applicant. They see this as a way for people who are not happy in Vietnam to leave legally, regardless of whether they have a claim under any of the normal refugee categories. This attitude may explain the surprising ease with which a portion of our Visas-93 and Priority One applicants receive necessary civil documents and passports. It is possible that some in the GVN see these programs as safety valves. On the other hand, GVN personnel, even members of the JWG, often make little or no distinction between the respective purposes of U.S. petition-based immigration and the U.S. Refugee Admissions Program. This is one more example of the odd nature of "refugee" processing in Vietnam.

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